



1009 9/27
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TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Don P. Johnson
TOWN MANAGER

August 23, 2004

Acton Wine and Spirit Company
Route 27, Main Street
Acton, Mass. 01720

ATTEN: Stephen Zeitler

Dear Mr. Zeitler:

As I am sure you can appreciate, driving under the influence of alcohol is a serious threat to public safety.

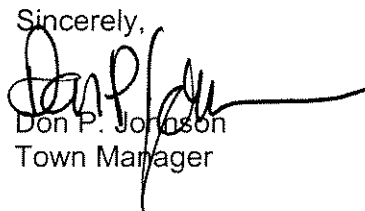
Attached is a Memo from the Police Chief regarding a sale made at your store to a patron which resulted in a Driving-Under-the-Influence (DUI) incident and arrest. This incident greatly concerns the Acton Board of Selectmen.

The Selectmen have asked that we schedule an appointment with the Management Representative and Salesperson who sold the liquor. At this meeting we will want to understand any training that the Acton Wine and Spirit provides its Sales Clerks, as well as any steps and actions that the Acton Wine and Spirit Company ownership will take to prevent this type of incident from occurring in the future.

We have scheduled this appointment on September 27, 2004 at 8:15 P.M. in Room 204 of the Acton Town Hall. Please call Christine Joyce at 978-264-9612 to confirm your appearance at the September 27th

Thank you for your consideration and we look forward to meeting with you.

Sincerely,


Don P. Johnson
Town Manager

Cc: Police Chief
Liquor File

POS

Acton Police Department

InterDepartmental Memo

From: Frank J. Widmayer, Chief of Police

Date: August 12, 2004

To: Don Johnson, Town Manager

Subj: Acton Wine & Spirit Co.

FILE COPY

On August 10, 2004 at approximately 6:45 p.m., an individual purchased some alcoholic beverages at Acton Wine & Spirit Co., 305 Main Street, Acton. Within ten minutes of making the purchase this individual was the subject of an erratic operation call to Boxborough P.D. and subsequently involved in an accident in the town of Boxborough. The individual was arrested and the breath test results were very high in my estimation. I am including copies of the Boxborough paperwork that was faxed at my request.

I recommend that the Board of Selectmen interview the proprietor or manager of Acton Wine & Spirit Co., in order to review the serving policy and training of the employees.

Frank J. Widmayer
Chief of Police



Boxborough Police Department
Arrest Report

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08/10/2004

Arrest #: 04-125-AR
Call #: 04-8969

Date/Time Reported: 08/10/2004 @ 1854
Arrest Date/Time: 08/10/2004 @ 1916
Booking Date/Time: 08/10/2004 @ 1916
OBTN: TBOX200400125
Court: Ayer District Court
Court Date: 08/11/2004 @ 0900
Reporting Officer: Patrolman Robert Romilly
Booking Officer: Patrolman Robert Romilly



#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	[REDACTED] BURROUGHS RD BOXBOROUGH MA 01719	F	W	30	006-80-3497	603-321-0088

HEIGHT: 507 WEIGHT: 130 HAIR: BROWN EYES: BROWN
BODY: NOT AVAIL. COMPLEXION: NOT AVAIL.
DOB: 06/02/1974 PLACE OF BIRTH: LINCOLN MAINE
LICENSE NUMBER: FL C563060747020 ETHNICITY: NOT HISPANIC

[APPEARANCE]

GENERAL APPEARANCE: ORDERLY
GLASSES WORN: NO

TATTOOS: TAT R ANKL (RED FLOWER)

[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: Single
FATHER'S NAME: [REDACTED] JEAN-YVES
MOTHER'S NAME: [REDACTED] EVANGELINE

EMPLOYER/SCHOOL: [REDACTED]
LEXINGTON MA

OCCUPATION: DENTAL HYGENIS

[RIGHTS/BOOKING CHECKS]

RIGHTS ADVISED BY: Patrolman Robert R Romilly Jr DATE/TIME: 08/10/2004 @ 1921
PHONE USED: Y PHONED DATE/TIME: 08/10/2004 @ 1921
ARRESTEE SECURED: Y 08/10/2004 1940
ARRESTEE CELL #: 3

FINGERPRINTED: N
PHOTOGRAPHED: Y
SUICIDE CHECK: Not Performed
PERSONS: State&Federal
NCIC VEHICLE CHECK: Performed
INJURY OR ILLNESS: N

Boxborough Police Department
Arrest Report

Page: 2
08/10/2004

Arrest #: 04-125-AR
Call #: 04-8969

#	OFFENSE(S)	A/C	STATE LAW
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LOCATION TYPE: Highway/Road/Alley/Street Zone: Zone 1
39 BURROUGHS RD
BOXBOROUGH MA 01719

1	OUI LIQUOR OCCURRED: 08/10/2004 1854 REFER TO CITATION#: M0843878	C	90 24
2	FAILURE TO DRIVE IN LANE NEAREST TO RIGHT OCCURRED: 08/10/2004 1854 REFER TO CITATION#: M0843878	C	89 4B

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1	[REDACTED] [REDACTED] MAIN ST ACTON MA 01720 DOB: 04/02/1950	WITNESS	M	W	54	NOT AVAIL	978-263-[REDACTED]

#	VEHICLE(S)	YEAR	MAKE	STYLE	COLOR1	COLOR2	REG	VALUE
1	WAUJC68E12A116509 STATUS: Held for Safe Keeping OWNER: [REDACTED] TOWED TO: CBK Towing 807 MASSACHUSETTS AVE Boxborough MA 01719 TOWED BY: CBK Towing	2002	AUDI		GRY		FL [REDACTED]	DATE: 08/10/2004 TOWING CHARGES:

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	5 BOTTLES OF VODKA, 2 EMPTY QUANTITY: 5 SERIAL #: NOT AVAIL DATE: 08/10/2004 OWNER: [REDACTED]	04-168-PR VALUE: \$10.00	Seized (Not Previously Stolen)
2	SIX PACK OF SAM ADAMS BEER QUANTITY: 5 SERIAL #: NOT AVAIL DATE: 08/10/2004 OWNER: [REDACTED]	04-169-PR VALUE: \$7.00	Seized (Not Previously Stolen)

Ref: 04-125-AR

On 8/10/2004, I was working an assigned 1500-2300 shift, in the Town of Boxborough, Operating marked car #17. The weather was clear and warm.

At approximately 1854 hrs, I was dispatched to the area of Mass ave/Burroughs Road for a motor vehicle accident. While responding, I was informed by the dispatcher that witnesses had called the PD to report her operation very erratic. I arrived and noticed a grey Saab in the woods, Burroughs Road, approximately 100 feet from the intersection of MA Ave. I noticed a female standing next to the vehicle.

When I exited my cruiser, I was immediately approached by a witness, Peter [REDACTED]. He stated that he had been following her since Rt. 27 (several miles). He stated that the entire way, she was all over the road and went off the roadway several times. He stated that numerous times, she went into the opposite lane and he feared that she would strike a car head on. He stated that he had been flashing his lights in an attempt to get her to pull over or realize her driving. I asked him if the female at the vehicle was driving and he stated she was. I took his information and thanked him.

I walked over to the operator and asked her what happened. She stated she didnt know. As I was talking to her, I noticed an odor of an alcoholic beverage coming from her breath. I further noticed her eyes to be glassy and she was very unsteady on her feet. A few times she nearly fell over.

I asked her how much she had to drink and she replied "nothing". I stated that I could smell alcohol on her breath. She again stated that she had nothing to drink. At this point CBK arrived to tow the vehicle. I asked her where her keys were so that the tow company could take the vehicle. She took the keys from her pocketbook, which she had with her, and handed them to me. I asked her if she was driving and she replied t she was. I asked her if anyone else was in the car with her and she stated "no". I asked her to consent to some field sobriety tests, and she agreed to. I walked her to the rear of my cruiser. At this time Sgt. Trefry arrived as backup.

I began explaining the test to her. I had to do it numerous times because she would start crying. Her attitude constantly changed. She would be very upset, then stop crying and be fine. I further noted that she was very unsteady on her feet still. I finally was able to perform the following tests on her.

One legged stand:

I fully explained this test to her. She stated she understood. She raised her foot off the ground and got to a count of 1 before she had to put her foot down and nearly fell over. I allowed her to try the test again. She raised her foot up, but swayed quite a bit. She counted #8 twice. The got to around 20 then trailed off and stopped counting and had to put her foot down. I deemed this test a failure.

9 Step walk and turn:

I fully explained this test to her, and she stated she understood. I had her stand in a Heel to toe fashion while I explained the test to her. She was unable to maintain this position at all. Once she started the test, she walked 5 or 6 steps and stopped. Not one step was heel to toe. She almost fell over during one step and stopped the test and began crying. I deemed this test a failure.

PBT:

I explained the PBT to her and offered it to her. She refused to take it.

Based upon her demeanor, her appearance, witness statements of her operation and her performance on the FST, I formed my opinion that she was intoxicated. I placed her under arrest. I started to put the handcuffs

Ref: 04-125-AR

on her and she began to pull away after I got one cuff on. Sgt. Trefry and I grabbed her uncuffed arm and brought it back behind her back with some resistance from her. She was handcuffed (dl) and brought over to car 17. I opened the door and she refused to get in the car. With some effort, she was finally placed in the rear of C17. I transported her to BPD for booking. Sgt. Trefry stood by with the car.

Once at BPD she was booked and afforded all of her rights. She was very irrational at the PD. Her mood would change constantly. One moment she would be joking with me, the next she would be crying. She asked me questions several times and would forget that she had just asked me the question.

She was read miranda and her OUI rights. She signed them and agreed to take the test. I started the test and she attempted to take it. The first time she pretended to blow into the machine and it restarted due to lack of volume. I then got a sample out of her, but during the ambient air check, it picked up alcohol in the air from her and had an ambient air check error. I restarted the test. On the second test, she again would not provide a sufficient sample. I gave her one more try to take the test and warned her that if she failed to provide enough of a sample, then it would be deemed a refusal. She then provided two samples. The results were .26% (.15% std) and .26%. I informed her that she failed the test and I explained the consequences to her. She was given a notice of suspension in hand.

Sgt. Trefry informed me that beer and Vodka nips were found in her trunk. They were tagged for evidence. There was a six pack of Sam Adams beer with one missing, and 5 Absolute Vodka nips, with two consumed.

A short time later, she was bailed by Comm. Allen for court the following day. Once bailed, she again asked me the same questions that she had asked before. She was picked up by her landlord, James D'Agostine.

ORIGINAL RECEIPT
Acton Wine & Spirit Co.
(978) 263-9060
08/10/2004

5	50ml ABSOLUT 80 50 ML	10.00
	sku 22368 @2.00	
1	1.1/8 BEER NUTS 1 OZ	0.65
	sku 39602	

6 ITEMS TOTAL 10.65

ID # 121 TOTAL 10.65

AMERICAN EXPRESS 10.65

Approval: 559121

Card #xxxxxxxxx2006 Expires: 0707

ACCOUNT BALANCE: 0.00
08/10/2004 06:45:25 PM ref: 138455

THANK YOU FOR SHOPPING
ACTON WINE & SPIRIT CO.

Department of State Police - Office of Alcohol Testing

Implied Consent Report Form, Alcotest 7110 MKIII-C

BOXBOROUGH PD

Instrument:	Model / Lot No. <u>Alcotest 7110 MKIII-C</u>	Serial No. <u>ARNM-0048</u>	Cert. Expires <u>10/16/2004</u>
Simulator:	<u>CU 34</u>	<u>DDSHS3-0016</u>	<u>10/16/2004</u>
Solution:	<u>7042</u>	<u>0.155 %BAC</u>	<u>08/16/2004</u>

Test Date: 08/10/2004

Case/Incident: 04-125AR

First Observed: 08/10/2004 07:10PM

Subject

Last Name: [REDACTED]

First Name, MI: [REDACTED] NA

D.O.B.: 06/02/1974

D.L. State & Zip.: FL [REDACTED]

Driver License No.: [REDACTED]

Social Security No.: [REDACTED]

Breath Test Information

Function	Result %BAC	Time HH:MM	Volume Liters (L)	Duration Seconds (s)	Temperature Simulator (°C)
Air Blank Test	0.00%	08:53PM			
Subject Test 1	0.26%	08:55PM	2.1L	7.1s	
Air Blank Test	0.00%	08:56PM			
Calibration Test	0.15%	08:57PM			34.0°C
Air Blank Test	0.00%	08:58PM			
Subject Test 2	0.26%	08:59PM	2.1L	8.0s	
Air Blank Test	0.00%	09:00PM			

In accordance with Ch. 90 s. 24 the concentration of alcohol in the subject's breath is 0.26% expressed in grams of ethanol per 100 milliliters of blood. The subject has a right to obtain a comparison blood test by a person or physician at their request and at their expense. Results of the blood test can be used to restore a subject's license at a court hearing.

Breath Test Operator

Last Name: ROMILLY

First Name, MI: ROBERT. R.

Operator ID No.: R105

Cert. Expires: 03/10/2007

Signature: [Signature]

Signature Date: 08/10/2004

I, the undersigned, hereby acknowledge the receipt of this test.

Signature of Person who provided the breath sample.

☒ Subject refused to sign.

APPLICATION FOR COMPLAINT

NUMBER

☒ ADULT ☐ JUVENILE

04-6286

Trial Court of Massachusetts
District Court Department

COURT DIVISION

Ayer District Court
25 EAST MAIN ST
AYER, MA. 01432☒ ARREST☐ HEARING☐ SUMMONS☐ WARRANT

THE WITHIN NAMED COMPLAINANT REQUESTS THAT A COMPLAINT BE ISSUED AGAINST THE WITHIN NAMED DEFENDANT CHARGING SAID DEFENDANT WITH THE OFFENSE LISTED BELOW.

DATE OF APPLICATION

11/1/2004

DATE OF OFFENSE

08/10/2004

PLACE OF OFFENSE

Boxborough, MA

NAME OF COMPLAINANT

Patrolman Robert R. Romilly Jr

NO. OFFENSE

G.L.
AND SEC.

ADDRESS AND ZIP CODE OF COMPLAINANT

Boxborough Police Department
520 Massachusetts Avenue
Boxborough, MA 01719

1. OUI LIQUOR [90/24/J]

90
242. FAILURE TO DRIVE IN LANE NEAREST TO
RIGHT [172]89
4B

NAME, ADDRESS, AND ZIP CODE OF DEFENDANT

[REDACTED]
BURROUGHS RD
BOXBOROUGH, MA. 01719

3.

4.

COURT USE
ONLYA hearing upon this complaint application
will be held at the above court address on

DATE OF HEARING

TIME OF HEARING

AT

CASE PARTICULARS - BE SPECIFIC

NO.	NAME OF VICTIM Owner of property, person assaulted, etc.	DESCRIPTION OF PROPERTY Goods stolen, what destroyed, etc.	VALUE OR PROPERTY Over or under \$250	TYPE OF CONTROLLED SUBSTANCE OR WEAPON Marijuana, gun, etc.
1.		2002 AUDI WAUJC88E12A116509		
2.				
3.				

OTHER REMARKS
04-125AR

OBTN: TBOX200400125

COPY

SIGNATURE OF COMPLAINANT

DEFENDANT IDENTIFICATION INFORMATION - Complete data below if known.

DATE OF BIRTH 08/02/1974	PLACE OF BIRTH LINCOLN MAINE	SOC. SECURITY NO. [REDACTED]	SEX F	RACE W	HEIGHT 507	WEIGHT 130	EYES BRO	HAIR BRO
OCCUPATION DENTAL HYGENIS	EMPLOYER/SCHOOL [REDACTED]	MOTHER'S NAME (MAIDEN) [REDACTED]	FATHER'S NAME [REDACTED]					

COURT USE ONLY

DATE	DISPOSITION	AUTHORIZED B
	NO PROCESS TO ISSUE <input type="checkbox"/> At request of complainant <input type="checkbox"/> Complainant failed to prosecute <input type="checkbox"/> Insufficient evidence having been presented	
	PROCESS TO ISSUE <input type="checkbox"/> Sufficient evidence presented <input type="checkbox"/> Defendant failed to appear <input type="checkbox"/> Warrant <input type="checkbox"/> Summons returnable	
	<input type="checkbox"/> Contingued to	
COMMENTS ARR 8/11/04 PTH 9/1/04		